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EXTRAORDINARY

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GOVERNMENT OF INDIA

LEGISLATIVE DEPARTMENT

New Delhi, the 28th July, 1947

ORDINANCE No. X OF 1947

AN

ORDINANCE

to confer certain special powers on the administration in Chief Commissioners' Provinces for the better control of the dissemination of undesirable matter

WHEREAS an emergency has arisen which makes it necessary to confer certain special powers on the administration in Chief Commissioners' Provinces for the better control of the dissemination of undesirable matter;

AND WHEREAS the Indian Legislature is not in session;

NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance:—

1. Short title, extent and commencement.—(1) This Ordinance may be called the Press (Special Powers) (No. 2) Ordinance, 1947.

(2) It extends to all Chief Commissioners' Provinces, except British Baluchistan.

(3) It shall come into force at once.

2. Interpretation.—In this Ordinance, unless there is anything repugnant in the subject or context, "document" includes gramophone records, sound tracks and any other articles on which sounds have been recorded with a view to their subsequent reproduction.

3. Delegation of powers.—(1) The Provincial Government may by order direct that any power which is conferred on it by this Ordinance shall in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised or discharged by a District Magistrate or Additional District Magistrate.

(2) The powers of the Provincial Government under this Ordinance shall be exercisable also by the Chief Commissioner.

4. Power to control publications.—The Provincial Government may by order in writing addressed to a printer, publisher or editor or generally to all printers, publishers or editors or to such class of printers, publishers or editors as may be specified therein—

(a) prohibit or regulate the printing or publication in any document or class of documents either absolutely or for a specified period, or in a particular issue or issues of a newspaper or periodical, of any matter which tends directly or indirectly to promote feelings of enmity or hatred between different classes of His Majesty's subjects;

(b) require that any document, or class of documents, or any matter relating to a particular subject or class of subjects, shall before publication be submitted for scrutiny to a specified officer, who may after such scrutiny, if he is satisfied that such document, class of document or matter or any portion thereof is or contains matter of the nature described in clause (a), either prohibit its publication or pass it for publication with such modifications as he may deem necessary.

5. Control of documents printed outside the Province.—The Provincial Government may, by general or special order, prohibit or regulate the entry into, or sale or distribution or circulation or publication or possession within, the Province of any document or class of documents, or of any matter of the nature described in clause (a) of section 4, printed or made outside the Province.

6. Forfeiture of books, newspapers or other documents. Where in its opinion any newspaper, book or other document, wherever made, contains any matter of the nature described in clause (a) of section 4, the Provincial Government may, by notification in the official Gazette, declare every copy of the issue of such newspaper, or of such book or other document to be forfeited to His Majesty, and thereupon any police officer may seize such copies wherever found, and any Magistrate may by warrant authorise any police officer not below the rank of Sub-Inspector to enter upon and search for such copies in any premises where any such copy may be or may be reasonably expected to be.

7. Prevention of publication of unauthorized matter.—Where the Provincial Government has reason to believe that a newspaper, book or other document is likely to be published, printed or made, containing matter of the nature described in clause (a) of section 4, it may, by order in writing, prohibit the printing or publication of such newspaper, book or document, or allow the publication, printing or making of the newspaper, book or document, subject to the publisher, printer, or editor, as the case may be, giving an undertaking in writing that he will not publish any such matter.

8. Dissemination of prohibited documents or matter.—(1) Whoever circulates or distributes in any manner any document or thing advocating or calculated to further any activity which tends directly or indirectly to promote feelings of enmity or hatred among different classes of His Majesty's subjects, or in respect of which an order of forfeiture under section 6 is in force shall, unless he proves that he was unaware of the nature of the document or thing, be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

(2) Whoever allows his name or address to be used to facilitate transmission through the post or otherwise to any person other than the person for whom it purports to be intended of any document or thing of the nature referred to in sub-section (1) shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

(3) Whoever publishes, circulates or repeats in public any matter contained in any newspaper, book or other document in respect of which any order of forfeiture or prohibition has been made under this Ordinance shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

9. Powers in respect of contravention of orders.—Where in the opinion of the Provincial Government any person has contravened an order made or deemed to have been made under section 4, section 5 or section 7 or an undertaking given or deemed to have been given by him under section 7, the Provincial Government may, without prejudice to any other penalty to which such person may be liable by order prohibit, either absolutely or for a specified period, the publication by him or on his behalf of any newspaper, periodical, leaflet or other document, and may order the seizure of all copies of the publication in respect of which the contravention has occurred and of any printing-press or other instrument or apparatus used in the production of the publication ; and the Provincial Government may by order declare forfeited to His Majesty any article so seized.

10. Penalties.—Whoever—

(a) contravenes any provision of this Ordinance or of any order made or deemed to have been made thereunder or any direction or undertaking given or deemed to have been given or condition imposed or deemed to have been imposed under this Ordinance, or

(b) interferes with or obstructs the compliance with such provision, order, direction, undertaking or condition by the person concerned, or

(c) obstructs the lawful exercise of any power conferred by or under this Ordinance,

shall, if no express provision is made by this Ordinance for the punishment of such contravention or interference or obstruction, be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

11. Attempt and abetment.—Whoever attempts to commit, or abets, or attempts to abet, or does any act preparatory to the commission of, any offence punishable under this Ordinance shall be deemed to have committed that offence.

12. Search.—(1) The power to issue search warrants conferred by section 98 of the Code of Criminal Procedure, 1898 (V of 1898), shall be deemed to include a power to issue warrants authorising—

(a) the search of any place in which any Magistrate mentioned in that section has reason to believe that any offence punishable under this Ordinance has been, is being or is about to be committed or that preparation for the commission of any such offence is being made ;

(b) the seizure in or on any place searched under clause (a) of anything which the officer executing the warrant has reason to believe is being or has been or is intended to be used for any purpose mentioned in that clause.

(2) Any police officer authorised by general or special order in writing of the District Magistrate or of the Superintendent of Police may search or cause to be searched any person whom he has reason to believe or suspects to be in possession of or carrying any document or other thing, the possession, circulation or distribution of which is punishable under this Ordinance, and may seize and detain any such document or thing found on such person.

(3) The provisions of the said Code shall, so far as may be, apply to searches made, and to the disposal of any property seized, under this section.

13. Offences to be cognizable.—Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (V of 1898), any offence punishable under this Ordinance shall be cognizable.

14. Jurisdiction barred.—Every declaration of forfeiture purporting to be made under this Ordinance shall, as against all persons, be conclusive evidence that the forfeiture therein referred to has taken place, and no proceeding or order purporting to be taken or made under this Ordinance shall be called in question by any Court, and no civil or criminal proceeding shall be instituted against any person for anything done or in good faith intended to be done under this Ordinance or against any person for any loss or damage caused to or in respect of any property whereof possession has been taken under this Ordinance.

15. Effect of orders, etc., inconsistent with other laws.—Any order made and any other action taken, under this Ordinance shall have effect notwithstanding anything inconsistent therewith contained in any other law or in any instrument having effect by virtue of any other law.

16. Temporary amendment of Act XXIII of 1931. So long as this Ordinance remains in force, the Indian Press (Emergency Powers) Act, 1931, shall have effect as if, in sub-section (1) of section 4 thereof, after clause (b), the following word and clause had been inserted, namely :—

“or

(bb) are calculated to instigate the commission of, or the publication of, which constitutes, an offence punishable under the Press (Special Powers) (No. 2) Ordinance, 1947.”

17. Continuance of orders, etc., and savings.—(1) All orders and declarations made, directions and undertakings given, and conditions imposed, under the Press (Special Powers) Ordinance, 1947 (III of 1947), and in force immediately before the expiry of that Ordinance shall continue to be in force according to their respective tenors, and shall be deemed to have been made, given or imposed, as the case may be, under this Ordinance.

(2) Section 6 of the General Clauses Act, 1897 (X of 1897) shall apply upon the expiry of the Press (Special Powers) Ordinance, 1947, as if that Ordinance were an enactment then repealed by a Central Act.

MOUNTBATTEN OF BURMA,

Viceroy and Governor General.

SHAVAK A. LAL,

Secy. to the Govt. of India